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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

<i>PAUL STEMPLER, individually and on behalf of all others similarly situated,</i>	Plaintiff,
v.	
QC HOLDINGS, INC.,	Defendant.

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Case No. 12-cv-01997-BAS(WVG)

**ORDER GRANTING  
PLAINTIFF’S EX PARTE  
APPLICATION FOR APPROVAL  
OF SETTLEMENT  
DISTRIBUTION PLAN**

**[ECF No. 116]**

Presently before the Court is Plaintiff Paul Stemple’s unopposed Ex Parte Motion for Approval of Settlement Distribution Plan. (ECF No. 116.) Plaintiff commenced this class action against Defendant QC Holdings, Inc. seeking relief for violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227. (ECF No. 1.) After several years of litigation, the Court granted the Motion for Final Approval of the Class Action Settlement (“Final Approval Order”) on November 7, 2016. (ECF No. 113.) This approval included, among other things, that a claims administrator would pay each Settlement Class Members their pro rata share of the Settlement Fund, or approximately \$1,208. (ECF No. 113 at 2, 7.)

1 Plaintiff now requests that the Court modify the distribution plan for the  
2 settlement proceeds to the Settlement Class Members in the following ways. First,  
3 Defendant will send one settlement check in the amount of \$1,163.24 to the validly  
4 claiming Settlement Class Members who provided the claim administrator  
5 (Kurtzman Carson Consultants, or “KCC”) with their valid tax identification  
6 information. Currently, this includes 457 out of 664 Settlement Class Members.  
7 Second, Defendant will also mail two settlement checks, one in an amount slightly  
8 under \$600 (approximately \$577) in 2017 and the other in the amount of the  
9 remaining portion in January 2018, to the validly claiming Settlement Class Members  
10 who did not provide KCC with their valid tax identification information by  
11 November 27, 2017. These two checks will total approximately \$1,155.00 and  
12 account for the additional costs associated with sending two checks instead of one.  
13 Currently, this includes 207 out of 664 Settlement Class Members.

14 Plaintiff makes this request largely due to the Internal Revenue Service’s  
15 requirement that any individual recovery exceeding \$600 must be accompanied by a  
16 tax identification number. (Mot. at 2.) The IRS penalizes \$250 for each check  
17 without the required tax identification information. KCC sent out requests for the  
18 tax identification numbers to every Settlement Class Member, and only received 457  
19 valid tax identification numbers to date. (*Id.* at 2). Hence, for the remaining 207  
20 Settlement Class Members, Plaintiff seeks to send these individuals two checks,  
21 neither of which will exceed the \$600 threshold, to avoid the IRS’s penalty and  
22 maximize these individuals’ recovery. (*Id.* at 4.) Plaintiff has also made the final  
23 calculation of the settlement proceeds, which amounts to \$1,173.19 per claim for 664  
24 valid claims. After dividing the costs of distributing the settlement checks among  
25 the Settlement Class Member, each member will receive \$1,163.24. Those  
26 Settlement Class Members who did not provide a valid tax identification number will  
27 bear the additional cost of distributing two checks instead of one, and their individual  
28 recovery will be further reduced to approximately \$1,155.00. The Final Approval


1 Order approximated \$1,208 per claim for the individual recovery amount for 645  
2 valid claims. The Court made previous fairness determinations in its Final Approval  
3 Order. Likewise, the Court finds that this amendment to the Final Approval Order is  
4 fair and approval is warranted.

5 For the reasons stated both in this Order as well as its Final Approval Order,  
6 the Court **GRANTS** Plaintiff's ex parte motion for approval of the settlement  
7 distribution plan (ECF No. 116). Accordingly, the Court amends its previous Final  
8 Approval Order (ECF No. 113) in the following ways:

- 9 1) The Court inserts the following item to its Order as item six: “**(6)** The Claim  
10 Administrator shall mail—in 2017—one settlement check in the amount of  
11 \$1,163.24 to the validly claiming Settlement Class Members who provided  
12 the Claim Administrator with their valid tax identification information.  
13 Currently, this includes 457 Settlement Class Members. The Claim  
14 Administrator will also mail—in 2017 and in January 2018—two  
15 settlement checks, one in an amount slightly under \$600 (approximately  
16 \$577) and the other in the amount of the remaining portion owed, to the  
17 validly claiming Settlement Class Members who did not provide the Claim  
18 Administrator with their valid tax identification information by November  
19 27, 2017. Both checks will be accompanied by an explanatory letter. These  
20 two settlement checks should amount to approximately \$1,155.00 to  
21 account for the additional costs associated with sending two checks instead  
22 of one. Currently, this includes 207 Settlement Class Members.”
- 23 2) Each of the following item numbers will be renumbered accordingly to  
24 account for this additional item (*e.g.* item six becomes item seven and so  
25 on).

26 **IT IS SO ORDERED.**

27  
28 **DATED: September 5, 2017**

  
**Hon. Cynthia Bashant**  
**United States District Judge**